

**Introduced by Committee on Revenue and Taxation (Senators
Cedillo (Chair), Alpert, Bowen, and Burton)**

February 26, 2004

An act to amend and renumber Section 6480.3 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1881, as introduced, Committee on Revenue and Taxation. Sales and use tax: exemption certificate.

The Sales and Use Tax Law authorizes a qualified person, as defined, to issue an exemption certificate to a seller of diesel fuel with respect to certain diesel fuel that is exempt from sales and use tax.

This bill would make a technical, nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION. 1. Section 6480.3 of the Revenue and Taxation
2 Code, as added by Chapter 446 of the Statutes of 2002, is amended
3 and renumbered to read:
4 ~~6480.3.—~~
5 6480.9. (a) A person qualified under subdivision (b) may
6 issue a certificate to a seller with respect to the amount of sales tax
7 required to be prepaid pursuant to Section 6480.1 when purchasing
8 diesel fuel from the seller. The certificate shall be completed in
9 accordance with any instructions or regulations as the board may
10 prescribe, and shall clearly specify that the person will purchase

1 the volume of diesel fuel that the person reasonably expects he or
2 she will sell that qualifies for the exemption under Section 6357.1.
3 A seller that receives a properly completed certificate from a
4 person qualified under subdivision (b) shall not be required to
5 collect the prepayment of the retail sales tax otherwise required in
6 Section 6480.1 on that volume of the diesel fuel sold pursuant to
7 the certificate.

8 (b) A person is qualified for purposes of this section if both of
9 the following conditions are met:

10 (1) The person sold diesel fuel that was used by the consumer
11 in a manner that qualified, or would have qualified for an
12 exemption under Section 6357.1, and in the prior year, those sales
13 totaled more than 25 percent of the person's total taxable sales.

14 (2) The person's sales consist primarily of either bulk
15 deliveries of fuel or of fuel sales through a cardlock, keylock, or
16 other unattended mechanism, or both. For purposes of the
17 preceding sentence, "bulk deliveries" means transfers of fuel into
18 storage tanks of 500 gallons or more.

19 (c) A person issuing a certificate pursuant to this section is
20 liable for sales tax that is imposed under the Bradley-Burns
21 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing
22 with Section 7200)) or in accordance with the Transactions and
23 Use Tax Law (Part 1.6 (commencing with Section 7251)) and sales
24 tax that is imposed under Section 6051.2 or 6201.2, or under
25 Section 35 of Article XIII of the California Constitution.

26 (d) A person issuing a certificate pursuant to this section shall
27 be liable for sales tax on any portion of the gross receipts derived
28 from the sale of fuel that is not sold in a manner that qualifies for
29 an exemption under Section 6357.1.

30 (e) A person liable for the sales tax under subdivision (c) or (d)
31 of this section shall report and pay that sales tax with the return for
32 the reporting period in which the person sells the fuel.

33 (f) Any person who gives a certificate pursuant to this section
34 for purchases of diesel fuel that he or she knows at the time of
35 purchase do not qualify for the exemption from the prepayment
36 pursuant to this section for the purpose of evading payment of the
37 prepayment of the retail sales tax is guilty of a misdemeanor
38 punishable as provided in Section 7153. In addition, the person
39 shall be liable to the state for a penalty of one thousand dollars

- 1 (\$1,000) for each certificate issued for personal gain or to evade
- 2 the payment of taxes.

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